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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ADTRADER, INC.,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Case No. 5:17-CV-07082-BLF

**PLAINTIFF'S OPPOSITION TO
DEFENDANT GOOGLE LLC'S
ADMINISTRATIVE MOTION TO EXTEND
PAGE LIMITS FOR BRIEFING ON
DEFENDANT'S MOTION TO DISMISS
CERTAIN CLAIMS**

Judge: Hon. Beth L. Freeman
Hearing Date: None Required, L.R. 7-11

1 Plaintiff AdTrader, Inc. hereby opposes defendant Google LLC's Administrative Motion
 2 to Extend Page Limits for Briefing on Defendant's Motion to Dismiss Certain Claims ("Motion").
 3 (ECF No. 22.)

4 Every lawyer would like more space to make their arguments. But page limits are
 5 established by courts for sound reasons: "'Judicial economy and concise argument are purposes
 6 of the page limit.'" *Aircraft Technical Publishers v. Avantext, Inc.*, 2009 WL 3833573, at *1
 7 (N.D. Cal. Nov. 16, 2009) (citation omitted). This Court's Standing Order Re Civil Cases and the
 8 Civil Local Rules allow parties a total of 65 pages of briefing on regularly noticed motions of all
 9 kinds, including motions for preliminary injunctions, motions for summary judgment, as well as
 10 Google's anticipated motion to dismiss for failure to state a claim. *See* Standing Order Re Civil
 11 Cases § E.1.a.; Civil L.R. 7-2(b), 7-3(a), 7-3(c).

12 Here, Google requests an additional 17 pages of briefing on its motion to dismiss on top of
 13 the 65 pages authorized by the Court. Google, however, has failed to explain how or why any
 14 page extension—let alone 17 additional pages—would serve judicial economy, encourage concise
 15 argument, or is necessary in any way.

16 Google complains that the "complaint covers far more ground than can be fully addressed
 17 within the default page limits," and proceeds to list various features of the complaint. (Mot. at
 18 2:9-3:3.) But nowhere does Google explain why its motion to dismiss would need to address
 19 each and every one of these details. Indeed, Google is quite candid that its request is premised on
 20 the speculation that some of these details "*may* need to be addressed" (*id.* at 2:28 (emphasis
 21 added))—not that they actually will be addressed. For example, is it really necessary to fully
 22 brief separate arguments on every single element of every single one of AdTrader's 11 claims¹
 23 (Mot. at 2:8-17), where: (a) each claim arises from the same nucleus of operative facts; (b)
 24 several claims are derivative of, closely related to, or pled in the alternative to other causes of
 25 action (Compl. ¶¶ 139, 176, 190, 206); and (c) the Court is required to "accept factual allegations
 26 in the complaint as true and construe the pleadings in the light most favorable to the nonmoving
 27

28 ¹ Apparently not, as the title of Google's motion indicates that it will move only on "Certain
 Claims," not all 11. (Mot. at 1.) Which ones? Google does not say.

party”? *Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008). As another example, why does it matter for purposes of a motion to dismiss that the complaint asserts both individual and class claims (Mot. at 2:14-17), particularly where this Court has previously held that “it would be premature to address [class certification issues] at the pleading stage”? *Los Gatos Mercantile, Inc v. E.I. DuPont De Nemours and Company*, 2015 WL 4755335, at *33 (N.D. Cal. 2015). And what is the import of the fact that one of the contracts at issue is governed by New York law while others are governed by California law? (Mot. at 2:22.) Is there a difference between the two jurisdictions’ laws that this Court will have to resolve? Google addresses none of these questions, and instead simply wants to reserve the option to address every minute issue it spots. Granting its request would encourage precisely the opposite of “[j]udicial economy and concise argument.” *Aircraft Technical Publishers*, 2009 WL 3833573, at *1.

Google also points to the fact that it felt the need to present 25-pages’ worth of arguments in its motion to dismiss the 17-page complaint in *SuperCray Inc. v. Google* (Mot. at 3:4-10), forcing undersigned counsel to respond to each and every one of those arguments regardless of their merit. The fact that Google could not be judicious with its arguments in another case is no basis to grant a 17-page extension here. In fact, it appears that Google and its counsel make it a practice to request page extensions with little regard to the specifics of a complaint. For instance, in another case before this Court, Google’s counsel sought to extend its page limit to 30 pages for its motion to dismiss a 22-page class action complaint. *See Free Range Content, Inc. v. Google Inc.*, Case No. 5:14-cv-02329-BLF, ECF Nos. 1, 18. After this Court denied that request, Google somehow found a way to limit itself to a 25-page motion to dismiss. *Id.*, ECF Nos. 19, 21. Furthermore, the complaint in this action is at bottom a straightforward complaint for breach of contract and fraud. As this Court has surely observed, defendants in other cases have managed to file 25-page motions to dismiss considerably more complex and prolix complaints. *See, e.g., Brodsky v. Yahoo! Inc.*, 592 F. Supp. 2d 1192, 1198 (N.D. Cal. 2008) (granting a 25-page motion to dismiss a “209 page” securities fraud class action complaint); *see also* Defs.’ Motion to Dismiss filed on June 20, 2008, in *Brodsky v. Yahoo! Inc.*, Case No. CV-08-2150-CW, N.D. Cal. (ECF No. 14). Certainly, Google can abide by the Court’s page limits here.

1 The Court would not “benefit” from having to wade through an additional 17 pages of
2 briefing on Google’s motion to dismiss. (Mot. at 3:16-18.) The only one who would benefit is
3 Google, by giving it more space to brief a battery of arguments regardless of their true merit and
4 forcing AdTrader (and the Court) to expend the time and resources addressing them all. The
5 Court should deny Google’s request.

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7 Dated: February 12, 2018

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9 By:


10 Samuel Song
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